

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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DEC 21 1993

In the Matter of

Joint Petition for
Rulemaking on Cable
Television Wiring

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)
) RM No. 8380
)

NYNEX'S COMMENTS

These comments are filed on behalf of New England Telephone and Telegraph Company and New York Telephone Company (respectively, "NYNEX New England" and "NYNEX New York"; collectively, "NYNEX"), in response to a request by the Federal Communications Commission (the "Commission") for comments on the Joint Petition for Rulemaking of Media Access Project, United States Telephone Association, and Citizens for a Sound Economy Foundation ("Joint Petition"), filed on July 27, 1993.

NYNEX fully supports the Joint Petition. As the Commission itself has recognized, "broader cable home wiring rules could foster competition".¹ The Commission should therefore take this opportunity to initiate a rulemaking proceeding to address inconsistencies in the location of the demarcation points for telephony inside wiring and cable home

¹ Implementation of the Cable Television Consumer Protection and Competition Act of 1992 -- Cable Home Wiring, MM Docket No. 92-260, Report and Order, released February 2, 1993 (the "Order"), ¶ 6.

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wiring. To achieve a competitive environment, the Commission must require that the demarcation points for both telephony (including video dialtone) and cable services be at the same location. In addition, the Commission should adopt rules that (i) allow the subscriber to control cable home wiring immediately upon installation and (ii) apply to "loop through" configured cable home wiring.

I. THE COMMISSION SHOULD ADOPT RULES ESTABLISHING A SINGLE DEMARCATION POINT FOR BOTH TELEPHONY INSIDE WIRING AND CABLE HOME WIRING

The development of fiber optics and other innovative technologies now permits the transmission of voice, video and data signals over the same facilities. There is no longer any question that the deployment of these new technologies has triggered a rapid convergence of the cable and telephone industries and that the two industries increasingly compete head-to-head.² Mergers, acquisitions and alliances between and among telephone and cable companies are setting the scene for a new multi-media marketplace.

As these industries converge, regulatory parity among competitors is essential. The Joint Petition affords the Commission the opportunity to ensure parity on the critical issue of the location of the demarcation points for telephony inside wiring and cable home wiring.

² As the Commission has correctly observed, "in the near future, telephone services, personal communications services, transport, and other telecommunications services may be offered by cable operators." Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, MM Docket No. 93-215, Notice of Proposed Rulemaking, released July 16, 1993, ¶ 59.

The Commission's existing demarcation point rules do not ensure even-handed treatment of all market players. In the case of telephony inside wiring, the Commission's existing rules establish the following demarcation points: For single family dwellings, the demarcation point must be within twelve inches of the protector or, if there is no protector, within twelve inches of where wiring enters the premises. For multiunit premises (e.g., a hi-rise), the demarcation point must be located no further than twelve inches inside the apartment or office suite. In some cases, a multiunit building owner may require the demarcation point to be located at the "minimum point entry" (e.g., in the basement).³

The cable home wiring demarcation point is established as follows: In a single family dwelling, the demarcation point must be located twelve inches outside of where cable wiring enters the home. In a multiple unit installation, the demarcation point must be located twelve inches outside of the customer's apartment or office suite. In contrast to the telephony inside wiring rules, multiple unit building owners may not require the cable company to locate the demarcation point in the basement. These cable rules do not apply to multiple unit installations where cable wiring is done in a "loop through" configuration.⁴

Under the existing demarcation point rules, there is no assurance that the demarcation points for telephony and

³ See 47 CFR § 68.3.

⁴ See 47 CFR § 76.5(mm).

cable services will be in the same location. In the case of multiunit premises, a building owner may require the telephone company to locate the demarcation point for telephony inside wiring in the basement while, on the other hand, the cable home wiring demarcation would remain at a point twelve inches outside the subscriber's apartment.

In this scenario -- with a telephony demarcation point located in the basement and a cable demarcation point located at the apartment -- a cable company would have a distinct competitive advantage. The telephone company's network would end in the basement, allowing the cable company to access in-place telephone inside wiring at that point. The cable company's network, on the other hand, would extend to the customer's apartment. The telephone company would not be able to utilize cable company facilities between the basement and the apartment to connect customers to the network (including the video dialtone platform). In addition, the cable company could provide both cable and telephony services over its cable network, arguably unconstrained by the demarcation point rules applicable to telephone company-provided telephony services.

NYNEX therefore urges the Commission to initiate the requested rulemaking proceeding. Furthermore, NYNEX proposes that the Commission's primary objective in a rulemaking proceeding should be to achieve uniformity in location of the demarcation points for telephony and cable services. While NYNEX is not now advocating a basement demarcation point, at a minimum, the Commission should adopt rules requiring location of a cable home wiring demarcation point in the basement if the

owner of a multiunit premises has caused the demarcation point for telephony to be located there.

II. CABLE HOME WIRING RULES SHOULD APPLY UPON INSTALLATION, AND SHOULD APPLY TO WIRING IN THE "LOOP THROUGH" CONFIGURATION

The telephony inside wiring rules -- which provide for customer control immediately upon installation -- provide an excellent model for the regulation of cable home wiring. The Commission's existing cable home wiring rules provide for customer control only upon a customer's termination of service.⁵ However, customer control must begin upon installation in order to achieve the Commission's objective of fostering competition and consumer choice. Even if cable service has not been terminated, a customer could obtain additional services from other providers through simultaneous use of spare capacity of the wiring. Foreclosing a customer from exercising this option not only impedes competition, but the efficient deployment of new services as well. The Commission should therefore initiate a proceeding and adopt rules establishing customer control immediately upon installation.

The Commission's existing cable home wiring rules do not apply to wiring in the "loop through" configuration.⁶ This exclusion is an open invitation to evasion of the Commission's rules through the use of such configurations.

⁵ 47 CFR § 76.801.

⁶ 47 CFR 76.5(mm).

Cable services providers can effectively prevent competition not only in existing multiunit premises wired in "loop through" configurations, but in new installations as well.

The total exclusion of the "loop through" configuration is, at best, overbroad. The Commission apparently excluded "loop through" wiring based on its understanding that "[t]o include wiring ... would give the initial subscriber in the loop control over the cable service of all remaining subscribers on the wire."⁷ However, even in such series wiring configurations, there is inevitably some length of wiring which is used by only one subscriber. At a minimum, the Commission should adopt rules giving the individual subscriber control of that portion of wiring in the "loop through" configuration which is used exclusively by the subscriber. In addition, if the owner of a multiunit premises wired in a "loop through" configuration locates the telephony inside wiring demarcation point in the basement, Commission rules should require location of the cable demarcation there also, irrespective of configuration.

III. CONCLUSION

The Commission is to be commended for the work that it has done thus far in the regulation of cable home wiring. It is important that the Commission complete the work it has begun in order to ensure that customers have the ability to choose


⁷ Order, ¶ 12.

freely among the telephony and cable services offered by competing providers.

NYNEX respectfully requests that the Commission initiate a proceeding and adopt rules in accordance with the proposals outlined above.

Respectfully submitted,

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Dated: December 21, 1993